(15-P)

Previous references.

File No. 103 of 03-04

1903.

Serial Nos. 1–2.

(Sep. Rev.)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1–2.

Part B. for

SUBJECT.

Adjudication of Stamp duty on a Sale-deed executed by Venkannachar of Kolar, in which a prior mortgage is recited.

Table of Contents.

Sl. 1. No. $\frac{3579}{338}$ dy. 14-2-04. From the Dy. Commr. Kolar.
Requesting to be informed if the document executed by
FL-1356. Venkannachar and his two brothers in favour of Subba-
char is sufficiently stamped.

Sl. 2. No. FL. 3318 dy. 31-5-04. To Dy. Commr., Kolar.
Stating that Govt. hold that this is a simple Conveyance
for Rs. 400/- and that the instrument as such has been
properly stamped; — also, that the recital of a prior mort
G. R. S. 58 - gage and its partial discharge by its vendors
and of the acknowledgement thereof by the mortgagee,
does not affect the question of the liability of the document
for a Stamp duty.

Office note

Letter no: 357 & 338 / 4.2.04
from the Dy Comr, Kolar
District, requesting to be
informed if the docu-
ment executed by one
Venkannachar of Kolar
and his brothers in
favour of Subbachar
is sufficiently stamped.

is submitted
A draft stating that
the four rupees stamp
which the instrument
bears is sufficient.

K.N.
19/3/04

A proper Opn not
should be put up -

The Opinion should
be considered to
have been made
under Sec: 56 -
If requires a decision
then has been

No Memorandum
of any claim
made by Gundappa
who is not a party
to the present transac-
tion. No Stamp
duty levied appears
to be sufficient
but as draft
order also

V.
26/3/64.

Submitted

Attended to

Mysore Government
General & Revenue Secretariat.

File No. (if any)

Directions.—

No., date and purport of receipts to be entered in red, and office note in black ink in order of dates.—To be written only on one side, and inside the line of margin.

Office Note.

3

Branch

Revenue

Subject.

Letter no: 3579/338 dy 14.2.04 from the Dy Comr, Kolar District, requesting to be informed if the document executed by one Venkannachar of Kolar and his brothers in favour of Sonar Subbachar is sufficiently stamped

Note.

Venkannachar of Sonar and his two brothers Gundachar and Krishnachar executed on a stamp paper of the value of Rs 4, a sale deed in favour of Sonar Subbachar, whereby a house at Kolar belonging to them was conveyed to the latter for Rs 400/-. The document contains at its end a statement that the house in question, which together with Kayamgutta Guttahalli village, also belonging to the

executors had been previously mortgaged to one Gundappa for Rs 1000/- ~~was~~ is freed from the encumbrance, ~~so that the~~ the mortgage ~~was~~ remains in respect of the village alone, and that the mortgagee Gundappa has granted a receipt to that effect and affixed his signature to the instrument as a witness.

The Sub Registrar of Kolar held that Sec 5 of the Mysore Stamp Regn was applicable to the case and that the document was accordingly chargeable with an additional stamp duty of Rs 12/-, viz, Rs 2/- for the release of the house under ~~clause~~ Art: 53 of the Mysore St: Regn, and Rs 10/- for the mortgage of the village under Art: 38 of the same.

The Dy Comr is of opinion that Sec 5 of the Stamp Regn is not applicable to the case in as much as the several matters contained in the document refer to the same property, viz, the house, and that the modification of the mortgage neither

leasings in a new and distinct transac-
tion with an independent consideration
of its own nor does it nullify the
original mortgage, and that this
the Statement seems to be only incidental and
auxiliary to the main instrument
The Dy Leasr requests to be informed
whether the document is not suffi-
ciently stamped.

There has been no renounce-
ment of any claim made by Sundappa
who is not a party to the present trans-
action. A draft order informing
the Dy Leasr that the stamp duty
levied is sufficient is put up.

Submitted.
DEV.
14/5/04.

This is a reference under
Sec: 56 Ind Stamp Regn.
Sub matter to the Secretary
with a draft for approval

17/5/04

Subd to the Dewan
through the 1st Cr 20/5/04

I have no doubt that the instrument
has been sufficiently stamped - Draft-
ing placed & abd - 22/5/04.

1388
24-5-04
camp entry

17926
24.V.04.

Read

Letter no: 3579/338 of the 14.2.04 from the Dy Comr, Kolar District, submitting for adjudication ~~the~~ an ~~following~~ instrument executed on a stamp paper of the value of Rs 4/- ~~Order~~

1 under Sec: 56 of the Mysore Stamp Reg.n

On 29.10.03 Venkannachar of Kolar and his two brothers executed on ~~the said~~ a stamp paper of the value Rs 4/- a sale deed in favour of Sonar Subbachar ~~conveying the property~~ whereby a house at Kolar belonging to them was conveyed to the latter for Rs 400/-. It has been stated at the end of the instrument that the house in question, which together with Kayangutta Guttahalli also belonging to them ~~had~~ undivided had been previously mortgaged to one Gundappa for Rs 1000/-,

N.A.P.U. to be taken pro-ed Ltr P. 22/5/04

kumbam
~~Lam~~ proceed from the
encumbrance thereon,
the mortgage ~~to~~ in
respect of the village
Vendimiyan before,
alone and that Gundappa has
granted a receipt to that
effect and affixed his attestation
~~Signature~~ to the ~~Sale~~ instrument
~~Deed as a witness~~. The
Sub Registrar of Kolar held
that the instrument was
the Nature of a document
~~similar to the one~~ defined
in Sec: 5 of the Mysore Stamp
Regulation, and who therefore
chargeable with an ad-
ditional stamp duty of
Rs 12/ on account of the
reference ~~therein~~ made therein to the Schedule of
~~the Release~~ mortgage of the house
~~from the previous mort-~~
~~gage~~ and to the continuance
~~the fact that~~ of
the mortgage ~~was~~ remaining in respect
of the village ~~alone~~.

The Dy Comm is of
opinion that Sec 5 of the

Mysore Stamp Regulation
is not applicable to the
case, as all the matters
stated in the document refer
to the same property, that
the modification of the
mortgage neither brings in
a new and distinct transaction with
a new and independent
consideration of its own,
nor does it nullify the
original mortgage, and
that it seems to be only
incidental and auxiliary
to the main instrument.
and he solicits the instructions
of Govt in the matter

Under Reference.

In the light of the
Dy Comr's opinion and of
the fact that there has been
no renouncement of
any claim made by
Gundappa who is not a
party to the present
transaction, Govt consider

Govt hold that
there is a conveyance,
pure and simple for
Rs 400, and that the
instrument as such
has been properly
stamped. Recital of a
mortgage & its discharge
in the instrument
by the vendee does not
affect the question of the
stamp duty payable
on the document

22/5 Jon.

Govt hold that there is a conveyance, pure and simple for Rs 400, and that the instrument as such has been properly stamped. Recital of a mortgage & its discharge in the instrument by the vendee does not affect the question of the stamp duty payable on the document

In reasoning does not seem quite sound - as any note of hand is used for there is no deed here or letter

22/5 Jon.

O

that the Stamp duty
levied is sufficient.

11
17/5/04

Offg Secy

Dr.
14/5/04

The Dy Comr, Kolar Dist,

Returning the enclo-
sures.

X. 1256. J. 1255

1

MYSORE GOVERNMENT GENERAL & REVENUE RECORD DEPARTMENT
19 DEC 1904

From
F. E. C. Cobbe Esqre
Deputy Commissioner
Kolar District.

To
L. Anantasami Rao Esqre
Offg: Secretary to the
Govt: of Mysore—
Revenue Deptt:

Dated 14th February 05.

Despatched 17th

Received Serial No. 1.

General No. 3579

No. 38

Enclosure No. 2

Requesting to be informed if the document executed by Venkama Char and his two brothers in favour of Sibba Char is sufficiently Stamped

Recd 20/2/05

19.2.05.

The Marks to the Rev. Dept
(as marked)

19/2/05

Submitted with draft.
A.N. 19/2/05

2.

Office of the Deputy Commissioner,
— Kolar District —
— Dated. 14th February 1904. —

From

F. E. C. Carr Esquire
Deputy Commissioner
Kolar District.

To.

L. Anantasami Rao Esqre B.A.
Offg: Secretary to the Government
— of Mysore —
Revenue & General Depts.

Sir, — In submitting herewith a copy of a document executed by Venkanna Char and his two brothers in favour of Subba Char and impounded by the Sub Registrar of Kolar, I have the honor to state that the document in question is a conveyance by which the executors sell their house for Rs 400/- to the executant. This house together with a Jodi village, called Gutthalli, was mortgaged to Lingadappa by the executors some time back for Rs 1000/- In the conveyance — deed the executors say that they have sold the house to Subba Char, — the former mortgagee, Lingadappa is not a party to this transaction — that the mortgage for Rs 1000/- is now in respect of the village alone, and that they have got him a receipt from

Gundappa to this effect. It will thus be seen that the original mortgage deed is not cancelled, but only modified. The conveyance deed itself is written on a properly stamped paper, but the Sub Registrar says that the clause referring to the modification of the mortgage must be taken as a distinct matter, and as such, must be separately stamped. Section 5 of the Stamp Act presumes that when an instrument relates to many matters, it is only when they are several and distinct that each of them requires to be separately stamped. In the present case all the matters refer to the same property. Also, the modification of the mortgage neither brings in a new and distinct transaction with an independent consideration of its own, nor does it nullify the original mortgage. This seems to be only incidental and auxiliary to the main instrument. I therefore request the favour of being informed

whether the document is not
Sufficiently Stamped. —.

I have the honor to be
Sir,
Your most obedient Servant,

R. C. Carr
Deputy Commissioner
Polaris District

Revised Draft

Read:

Letter No: 3579/338 dated the 14th. February 1904, from the Deputy Commissioner, Kolar District, submitting for adjudication under Section 56 of the Mysore Stamp Regulation an instrument executed on a stamp paper of the value of ₹4/-.

Serial No. 2

Order. D 3318 of 31/5/04

On 29.10.03, Venkanna Char of Kolar and his two brothers executed on a stamp paper of the value of ₹4/- a sale deed in favor of Sonar Subba Char whereby a house at Kolar belonging to them was conveyed to the latter for ₹400/-. It is stated at the end of the instrument that the house in question, which together with Kayamgutta Guttahalli also belonging to the executants had been previously mortgaged to one Gundappa for ₹1000/-, had been freed from the encumbrance thereon, the mortgage in respect of the village alone remaining as before, and that Gundappa has granted a receipt to that effect and affixed his attestation to the instrument. The Sub Registrar of Kolar held that the instrument was of the nature of a document defined in Section 5 of the Mysore Stamp Regulation, and was therefore chargeable with an additional stamp duty of ₹12/- on account of the reference made therein to the discharge of the mortgage in

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in respect of the house and to its continuance in respect of the village.

The Deputy Commissioner is of opinion that Section 5 of the Mysore Stamp Regulation is not applicable to the case and he accordingly solicits the instructions of Government in the matter.

Government hold that this is a conveyance, pure and simple, for Rs400/- and that the instrument as such has been properly stamped. The recital of a prior mortgage and its partial discharge by the vendors, and of the acknowledgement thereof by the mortgagee, does not affect the question of the liability of the document for stamp duty.

28/5/04

Offg: Secretary.

o,

The Deputy Commissioner, Kolar Dt., returning the enclosures.

C.
2 2 . 5 04

copd 31/5/04.
Compd 31/5